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Attorneys for Defendant APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.

Plaintiff, Counter-defendant
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S STATEMENT
IN SUPPORT OF ADMINISTRATIVE
MOTION TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
5 information based on my personal experience representing Apple. I have personal knowledge of the
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
7 in support of Apple’s Statement in Support of Administrative Motion to Seal.¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
10 documents include a company’s trade secrets, internal codenames, confidential research and
11 development, personally identifiable information, or other commercially sensitive information. I
12 understand that this Court has broad latitude to prevent the public disclosure of these categories of
13 commercially sensitive information.

14 3. Apple operates in an intensely competitive environment. Apple has serious and
15 legitimate concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
17 the confidentiality of its information.

18 4. Apple has carefully reviewed Exhibits A and B to Epic Games, Inc.’s Administrative
19 Motion to Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule
20 79-5 (“Epic’s Motion”) (Dkt. 1457), and now proposes to partially seal information therein that, if
21 disclosed, could reveal Apple’s confidential engagement of outside consultants and counsel, personally
22 identifiable information, and competitively sensitive, non-public project codenames.

23 5. Exhibits A and B contain competitively sensitive, non-public information regarding
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26 ¹ Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
28 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

Apple's engagement of outside consultants and counsel in connection with Apple's foreign regulatory legal strategy. Exhibit B contains personally identifiable information in the form of email addresses of Apple employees, outside counsel, and outside consultants. Exhibit B also contains competitively sensitive, non-public information regarding Apple's internal project codenames, which Apple intends to keep confidential. Public disclosure of Apple's confidential use of outside consultants and non-public project codenames would reveal Apple's internal business and legal decision-making and proprietary information, which could be used by competitors to gain an unfair competitive advantage over Apple and/or affect Apple's market position. Apple has narrowly-tailored its sealing request as to maximize the public's access to court documents without jeopardizing Apple's privacy or business interests. The remainder of the exhibits remain unredacted.

6. Below is a chart detailing the portions of the exhibits sealable for the reasons explained herein, as well as in Apple's statement.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Redacted outside consultants on Page 2.	Exhibit A	Reflects non-public Apple legal and public relations strategy
Redacted outside consultants and outside counsel in the "From/To/Cc" columns of rows 1, 6, and 8 of the privilege log.	Exhibit B	Reflects non-public Apple legal and public relations strategy
Redacted email addresses in the "From/To/Cc/Bcc" columns of rows 1-17 of the privilege log.	Exhibit B	Reflects personally identifiable information
Redacted information in the "Subject" and "Original Name" columns of rows 3-5 of the privilege log.	Exhibit B	Reflects non-public Apple project codenames

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
2 correct. Executed this 22nd day of April 2025, in Washington, D.C.

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4 Dated: April 22, 2025

Respectfully submitted,

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6 By: /s/ Mark A. Perry

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